

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
COOKEVILLE DIVISION

UNITED STATES OF AMERICA, <i>et al.</i> ,)	
<i>ex rel.</i> DEBRA NORRIS,)	
)	
Plaintiffs,)	
)	Civil Action No.: 2:13-cv-00035
v.)	
)	MAGISTRATE JUDGE NEWBERN
DAVID FLORENCE,)	
)	
Defendant.)	

CONSENT JUDGMENT AND PERMANENT INJUNCTION

Plaintiff the United States of America (“United States”) filed an Amended Complaint in Intervention (“Complaint”) in this matter against Defendant David Florence (“Florence”) and other defendants seeking damages and civil penalties under the Controlled Substances Act, 21 U.S.C. § 801 *et seq.* (“CSA”) and the False Claims Act, 31 U.S.C. § 3729, *et seq.*, as well as injunctive relief under the CSA against Florence and others. ECF No. 77. The United States, Relator Debra Norris (“Relator”), and Florence (the “Parties”) stipulate to the entry of this Consent Judgment and Permanent Injunction (“Order”) to resolve the claims alleged in the Complaint against Florence, the only remaining defendant in this action. The Parties have informed the Court of the following:

PARTIES

1. Plaintiff is the United States.
2. Relator is a resident of Tennessee. On May 3, 2013, she filed a *qui tam* action against Florence and other defendants.
3. Florence is a resident of Tennessee and a doctor of osteopathy.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over this action pursuant to 21 U.S.C. §§ 842(c)(1)(A), 843(f), and 882(a), 28 U.S.C. §§ 1331, 1345, and 1355, and 31 U.S.C. §§ 3730(a) and 3732(b). For purposes of this Order, Florence consents to this Court's subject matter and personal jurisdiction.

5. For purposes of this Order, Florence consents to venue in this judicial district.

6. For purposes of this Order, Florence agrees that the Complaint states claims upon which relief can be granted under the Controlled Substances Act and the False Claims Act.

7. To avoid the delay, uncertainty, inconvenience, and expense of protracted litigation, the Parties have reached a settlement agreement in this matter, some of the terms of which are set forth below. The Parties recognize, and by entry of this Order the Court finds, that this Order is fair, reasonable, and in the public interest.

ORDER

In view of the foregoing, and based on the Parties' consent, it is hereby ORDERED, ADJUDGED, and DECREED as follows:

1. Florence is hereby permanently restrained and enjoined under 21 U.S.C. §§ 843(f) and 882(a), from the date when this Order is signed, from issuing prescriptions for any controlled substances under Schedules II and III of the CSA (*see* 21 U.S.C. § 812 and 21 C.F.R. §§ 1308.12-13), except for buprenorphine products as allowed by Tennessee law, testosterone, Fioricet, and Fiorinal.

2. Florence shall not apply for any DEA registration for any controlled substances under Schedules II or III of the CSA (*see* 21 U.S.C. § 812 and 21 C.F.R. §§ 1308.12-13), except for buprenorphine products as allowed by Tennessee law, testosterone, Fioricet, and Fiorinal.

3. Florence warrants that he freely and voluntarily consents to this Order without any duress or compulsion and upon the advice of legal counsel, and the undersigned counsel represent and warrant that they are fully authorized to execute this Order on behalf of Florence.

4. This action and all claims asserted herein by Relator and the United States are otherwise dismissed with prejudice. Each Party shall bear its own legal and other costs incurred in connection with this matter.

5. This Order resolves only those claims set forth in the Complaint and does not affect any other civil, criminal, or administrative claims that the United States may have or bring against Florence.

6. The United States District Court for the Middle District of Tennessee retains exclusive jurisdiction to enforce or modify this Order, and for the purpose of granting such additional relief as may be necessary or appropriate.

It is so **ORDERED**.


ALISTAIR E. NEWBERN
United States Magistrate Judge

APPROVED FOR ENTRY:

For the United States:

MARK H. WILDASIN
United States Attorney
Middle District of Tennessee

By: s/ Wynn M. Shuford
WYNN M. SHUFORD
Assistant United States Attorney
United States Attorney's Office
110 Ninth Avenue South, Suite A-961
Nashville, TN 37203-3870
Email: wynn.shuford@usdoj.gov

For Defendant David Florence:

THE HUSKEY FIRM

s/ Robert L. Huskey
Robert L. Huskey
Jason L. Huskey
514 Hillsboro Blvd.
Manchester, TN 37355
(931) 728-1800
(931) 728-1801 (fax)
Email: thehuskeyfirm@att.net

For Relator Debra Norris:

SIMS FUNK, PLC
s/ Grace A Fox
Robert A. Peal
Grace A. Fox
Sims Funk, PLC
3322 West End Avenue, Suite 200
Nashville, TN 37203
Email: gfox@simsfunk.com
Email: rpeal@simsfunk.com